

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KAREN D.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 2:24-cv-12139

HONORABLE STEPHEN J. MURPHY, III

**ORDER ADOPTING REPORT AND
RECOMMENDATION [17] AND DISMISSING CASE**

The Commissioner of the Social Security Administration (“SSA”) denied the application of Plaintiff Karen D. for Supplemental Security Income and Disability Insurance Benefits in a decision issued by an Administrative Law Judge (“ALJ”). ECF No. 7-1, PageID.142. After the SSA Appeals Council declined to review the ruling, Plaintiff appealed. *Id.* at PageID.27. The Court referred the matter to Magistrate Judge Kimberly G. Altman. ECF No. 10, PageID.1166.

It is the practice of the United States District Court for the Eastern District of Michigan to adjudicate Social Security appeals on cross motions for summary judgment, and the magistrate judge ordered Plaintiff to submit her motion for summary judgment by February 10, 2025. ECF No. 15, PageID.1185. On March 14, 2025, well after Plaintiff missed the summary judgment deadline, the magistrate judge ordered her to show cause no later than April 14, 2025 for why the case should

not be dismissed for want of prosecution. ECF No. 16, PageID.1188. Plaintiff did not respond.

The magistrate judge issued a Report and Recommendation suggesting that the Court should dismiss the case under Federal Rule of Civil Procedure 41(b) and Local Rule 41.2 for failure to prosecute. Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is required only if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Plaintiff had seventeen days from being served with the Report and Recommendation to object. Fed. R. Civ. P. 72(b)(2) (setting the default objection timeline at fourteen days); Fed. R. Civ. P. 6(d) (adding three days because Plaintiff was served by mail). But the Court has not received an objection from Plaintiff. The Commissioner also did not object.

Because neither party filed objections, de novo review of the Report's conclusions is not required. After reviewing the record, the Court finds that the magistrate judge's conclusions are factually based and legally sound. Accordingly, the Court will adopt the Report's findings and dismiss the case for want of prosecution under Federal Rule 41(b) and Local Rule 41.2.¹

¹ Although the Report and Recommendation did not specifically state whether dismissal with or without prejudice is appropriate, absent language to the contrary a dismissal under Rule 41(b) is with prejudice. The Court may thus conclude that the recommended dismissal is one with prejudice.

WHEREFORE, it is hereby **ORDERED** that the magistrate judge's Report and Recommendation [17] is **ADOPTED**.

IT IS FURTHER ORDERED that this case is **DISMISSED WITH PREJUDICE**.

This is a final order that closes the case.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: May 16, 2025

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 16, 2025, by electronic and/or ordinary mail.

s/R. Lory
Case Manager